



Senate

General Assembly

File No. 232

January Session, 2003

Substitute Senate Bill No. 970

Senate, April 8, 2003

The Committee on Program Review and Investigations reported through SEN. CRISCO of the 17th Dist., Chairperson of the Committee on the part of the Senate, that the substitute bill ought to pass.

**AN ACT IMPLEMENTING THE RECOMMENDATIONS OF THE
LEGISLATIVE PROGRAM REVIEW AND INVESTIGATIONS
COMMITTEE RELATIVE TO THE VENDING OPERATIONS OF THE
BOARD OF EDUCATION AND SERVICES FOR THE BLIND.**

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. Section 10-303 of the general statutes is repealed and the
2 following is substituted in lieu thereof (*Effective July 1, 2003*):

3 (a) (1) The authority in charge of any building or property owned,
4 operated or leased by the state or any municipality therein shall grant
5 to the Board of Education and Services for the Blind a permit to
6 operate in such building or on such property a food service facility, a
7 vending machine or a stand for the vending of newspapers,
8 periodicals, confections, tobacco products, food and such other articles
9 as such authority approves when, in the opinion of such authority,
10 such facility, machine or stand is desirable in such location. Any
11 person operating such a stand in any such location on October 1, 1945,

12 shall be permitted to continue such operation, but upon such person's
13 ceasing such operation such authority shall grant a permit for
14 continued operation to the Board of Education and Services for the
15 Blind. Said board may establish a training facility at any such location.

16 (2) Notwithstanding the provisions of subdivision (1) of this
17 subsection, on and after July 1, 2003, the authority in charge of any
18 building or property owned, operated or leased by any municipality,
19 vocational-technical school or public institution of higher education
20 may, but shall not be required to, grant to the Board of Education and
21 Services for the Blind a permit for the operation of a vending machine
22 in any such building or property owned, operated or leased by such
23 municipality, vocational-technical school or public institution of higher
24 education. Nothing in this section shall be construed to impair any
25 contract that exists on June 30, 2003, including any rights in such
26 contract of a party to the contract to require that such contract be
27 extended for an additional period.

28 (3) Vending machine income accrued as a result of a municipality,
29 vocational-technical school or public institution of higher education
30 which on and after July 1, 2003, grants a permit to the Board of
31 Education and Services for the Blind for the operation of a vending
32 machine at a building or property owned, operated or leased by any
33 such municipality, vocational-technical school or public institution of
34 higher education shall be deposited in the nonlapsing account
35 established pursuant to subsection (c) of this section.

36 (b) Pursuant to the Randolph-Sheppard Vending Stand Act, 49 Stat.
37 1559 (1936), 20 USC 107, as amended from time to time, the Board of
38 Education and Services for the Blind is authorized to maintain a
39 nonlapsing account and to accrue interest thereon for federal vending
40 machine income which, in accordance with federal regulations, shall
41 be used for the payment of fringe benefits to the vending facility
42 operators by the Board of Education and Services for the Blind.

43 (c) The Board of Education and Services for the Blind [may] shall
44 maintain a nonlapsing account and accrue interest thereon for state

45 and local vending machine income. [which] Moneys in said account
46 shall be used for [the] purposes of (1) payment of fringe benefits,
47 training and support to vending facilities operators, [and] (2) to
48 provide entrepreneurial and independent-living training and
49 equipment to children who are blind or visually impaired and adults
50 who are blind, (3) to provide Braille, audio-recorded or other
51 electronically accessible versions of textbooks for persons who are
52 blind, visually impaired or dyslexic, and (4) the development of jobs
53 for adults who are blind. Not later than July 1, 2004, and annually
54 thereafter, the director of the Board of Education and Services for the
55 Blind shall submit a report, in accordance with section 11-4a, to the
56 joint standing committees of the General Assembly having cognizance
57 of matters relating to human services and appropriations and the
58 budgets of state agencies and the legislative program review and
59 investigations committee which sets forth a detailed accounting of the
60 amount and purpose of any expenditure of moneys from the account
61 established pursuant to this subsection and the number and types of
62 new jobs created in the preceding calendar year for adults who are
63 blind. At the end of each fiscal year, any sum of money in excess of
64 seven hundred fifty thousand dollars in said account, shall revert to
65 the General Fund of the state.

66 (d) The Board of Education and Services for the Blind may disburse
67 state and local vending machine income to student or client activity
68 funds, as defined in section 4-52.

69 (e) Notwithstanding any of the provisions of this section the
70 authority in charge of any state or municipal building or property with
71 both vending machines and a vending stand in operation pursuant to
72 subsection (a) of this section shall permit blind operators of such
73 vending stands, during the period of operation of such stands, to
74 accrue revenues derived from the vending machines, in the manner
75 prescribed by the Board of Education and Services for the Blind.

76 Sec. 2. Section 10-298 of the general statutes is repealed and the
77 following is substituted in lieu thereof (*Effective July 1, 2003*):

78 (a) The Board of Education and Services for the Blind shall,
79 annually, as provided in section 4-60, submit to the Governor its
80 report, containing a statement of the activities of the board during the
81 preceding year. Said board shall prepare and maintain a register of the
82 blind in this state which shall describe their condition, cause of
83 blindness and capacity for education and industrial training. The
84 board may register cases of persons whose eyesight is seriously
85 defective and who are liable to become visually handicapped or blind,
86 and may take such measures in cooperation with other authorities as it
87 deems advisable for the prevention of blindness or conservation of
88 eyesight and, in appropriate cases, for the education of children and
89 for the vocational guidance of adults having seriously defective sight
90 but who are not blind.

91 (b) The board may accept and receive any bequest or gift of personal
92 property and, subject to the consent of the Governor and Attorney
93 General as provided in section 4b-22, any devise or gift of real property
94 made to said board, and may hold and use such property for the
95 purposes, if any, specified in connection with such bequest, devise or
96 gift.

97 (c) The Board of Education and Services for the Blind may enter into
98 memoranda of understanding with other state agencies to carry out the
99 purposes set forth in subsection (a) of section 10-303, as amended by
100 this act, including, but not limited to, memoranda concerning the
101 operation of vending facilities at rest and recreation areas adjacent to
102 state highways. Any revenue accrued to the Board of Education and
103 Services for the Blind as a result of such memoranda shall be deposited
104 in the nonlapsing account established pursuant to subsection (c) of
105 section 10-303, as amended by this act.

This act shall take effect as follows:	
Section 1	July 1, 2003
Sec. 2	July 1, 2003

PRI *Joint Favorable Subst.*

The following fiscal impact statement and bill analysis are prepared for the benefit of members of the General Assembly, solely for the purpose of information, summarization, and explanation, and do not represent the intent of the General Assembly or either House thereof for any purpose:

OFA Fiscal Note

State Impact:

Agency Affected	Fund	Effect	FY 04 \$	FY 05 \$
Board of Education and Services for the Blind	BEP Account	Revenue Loss	\$1.5 - \$3.0 million	Less than \$500,000
Board of Education and Services for the Blind	BEP Account	Potential Revenue Gain	See Below	See Below
Resources of the General Fund	GF	Revenue Gain	\$1.5 - \$3.0 million	Less than \$500,000

Note: GF=General Fund; BEP= Business Enterprise Account (restricted nonlapsing)

Municipal Impact: See Below

Explanation

The bill makes changes to the Board of Education and Services for the Blind (BESB) Business Enterprise Program (BEP). The various impacts are identified below.

Overview of BEP Account

The BEP account operated by BESB receives revenue from vending machine receipts in state and municipal buildings (such as police, town hall, fire and public works). Funding from this account supports the start-up and renovation costs of the entrepreneurial opportunities for blind individuals by providing them with a site to operate a business (currently operating shops/café/food services). In addition, funding supports purchase and repair of equipment, and the salaries and fringe benefits of the BESB staff that support the program. There are 31 individuals operating such sites. Currently, vending machine commission (35% of gross sales - as negotiated under the Coke contract - Coca Cola Bottling Company of New England) deposited into the BEP account is generated at state owned and operated buildings and

municipal buildings (that BESB has brought under the Coke vending contract). School systems and vocational technical schools currently retain their vending commission in student activity funds.

The following table reflects BEP account activity in FY 02:

Business Enterprise Account (BEP)	
Available in FY 02 from FY 01	\$2,107,255
Revenue FY 02	\$2,020,510
Interest Earned	\$15,000
Less FY 02 Expenditures	(\$1,435,928)
Continued from FY 02 into FY 03	\$2,706,837

Over the past three fiscal years the revenue generated and deposited into the account during each year has exceeded the expenditures each year on average by \$605,000. Therefore as reflected in the table above, funding has been available from the previous fiscal year. Based on FY 03 year-to-date revenue and expenditures with spending and revenue patterns consistent through to the end of the fiscal year, the funding available at the end of FY 03 (to be continued into FY 04) is estimated to be \$3.3 million. However, to the extent that BESB incurs significant costs associated with large projects in the BEP in the last quarter of this fiscal year, then a corresponding reduction to this available funding continued into FY 04 would result.

Impact

The bill requires that at the end of each fiscal year any sum in excess of \$750,000 in the BEP account shall revert to the General Fund. As the bill's effective date is July 1, 2003, the revenue gain to the General Fund at the end of FY 04 is estimated to range from \$1.5 - \$3.0 million. If the BEP account maintained current spending and revenue patterns in FY 04 consistent with year-to-date in FY 03, then \$3 million would revert to the General Fund (as a result of the cap provision). However, if FY 04 expenditures doubled that of FY 02 (and revenue was \$2.4 million), the gain to the General Fund would be \$1.5 million (as a result of the cap provision). It is anticipated that the BEP program will

reflect a growth in FY 04 and therefore commit significant funding during the fiscal year. To the extent that the BEP incurs significant costs within the year associated with major projects that have previously not been incurred, then a corresponding reduction in the revenue gain to the General Fund would result. Any revenue gain to the General Fund as a result of this provision will see the same revenue loss to the BEP account. As BESB has yet to reach the BEP revenue capacity, there may be increased revenue generated in FY 05 due to expansion on vending sites. Although the cap provision has a more significant impact in FY 04, it is anticipated to result in up to \$500,000 in a General Fund revenue gain in FY 05.

Although the permissive option for municipality participation is effective July 1, 2003, it is anticipated that the Coke contract will not be impaired and therefore those municipalities currently under contract will be maintained. It is anticipated that the current level of municipal revenue in the BEP account will not be reduced by the bill's provision. In FY 02 over \$200,000 was deposited into the BEP account from vending machine receipts generated at municipal buildings (not including schools as current practice allows schools to keep their commission).

The voluntary option in conjunction with the provision of the bill that requires vending machine receipts from municipality, vocational-technical school or public higher education (granting a permit on or after July 1, 2003) to be deposited into the BEP account are effective July 1, 2003. Current practice allows the schools to keep the commission on vending receipts and maintain a student activity fund. It is not anticipated that they will chose to option in and lose their funding in the future. The contract impairment provision allows BESB to retain the right of first refusal for the vending machines in schools. However, it is unclear what impact this will have on the provision directing vending machine receipts generated for schools brought under the Coke contract (new permits) to be deposited into the BEP account (and not the schools activity funds as is current practice).

The bill also allows BESB to enter into memorandum of understanding with state agencies to carry out the right of first refusal and allow blind vending operators to maintain the vending machines receipts in the building they operate in. Both of these provisions are current practice and will not result in an impact to the state. Furthermore, the bill places reporting requirements on BESB, which they will be able to handle without additional resources.

OLR Bill Analysis

sSB 970

AN ACT IMPLEMENTING THE RECOMMENDATIONS OF THE LEGISLATIVE PROGRAM REVIEW AND INVESTIGATIONS COMMITTEE RELATIVE TO THE VENDING OPERATIONS OF THE BOARD OF EDUCATION AND SERVICES FOR THE BLIND**SUMMARY:**

This bill makes several changes in the law related to the Board of Education and Services for the Blind's (BESB) Business Enterprise Program (BEP) and BESB's general right of first refusal to place vending machines in state and local buildings.

It gives municipalities, public schools, vocational-technical schools, and public colleges and universities the option to have their own machines in lieu of participating in the BEP. But the bill specifies that exercise of this option cannot impair any existing contract. BESB is currently four years into a 10-year exclusive contract with a vendor to place machines in public buildings.

The bill adds to the list of goods and services on which BESB can spend revenue it collects from these machines. It requires the BESB director to submit a report with a detailed accounting of how it spends these funds to the Human Services, Appropriations, and Program Review and Investigations committees by July 1, 2004, and annually thereafter. It specifies that any funds in excess of \$750,000 remaining in BESB's vending account at the end of a fiscal year revert to the General Fund.

The bill conforms law to practice by (1) allowing blind vending operators who have both vending machines and stands in state or municipal buildings to keep their share of the machines' revenue, rather than having them revert to BESB and (2) allowing BESB to enter into memoranda of understanding (MOU) with state agencies to carry out the right of first refusal provisions.

EFFECTIVE DATE: July 1, 2003

BESB VENDING

Right of First Refusal and Coke Contract

Under current law, the authority in charge of any state or municipally owned, operated, or leased building or property must grant BESB a permit to operate vending machines on these properties when the authorities wish to offer vending services in these locations. The bill allows these authorities, except those in charge of state buildings but including those in charge of the state's vocational-technical schools and public colleges and universities, to opt out of this requirement, beginning July 1, 2003. If an authority chooses to participate in BESB's program, the bill requires any vending machine revenue accruing from any new locations to be deposited into the nonlapsing 361 account BESB maintains for machines under its control. The bill requires, rather than allows, BESB to maintain this account. (Public schools currently participating in the BEP get to keep their share (35%) of the vending machine proceeds. It appears that under the bill, the school's share would go to BESB.)

Although the bill allows these authorities to opt out of participating in the BEP, it also specifies that it should not be construed to impair any contract that exists on June 30, 2003, including either party's contractual right to require the contract to be extended. Since BESB entered into a 10-year exclusive contract with the Coca Cola Bottling Company of New England (Coke) to place Coke machines in public buildings, and the contract does not expire until June 2009, BESB will continue to retain its right of first refusal for the duration of the contract. Thus it appears that until 2009, or beyond if the contract gets extended, (1) locations already under the Coke contract will remain under the contract and (2) those state or local authorities that BESB has not yet approached will have to allow Coke to place its machines if they want to offer vending machines in their facilities.

Uses of Vending Income and Report to Legislative Committees

By law, BESB must use funds from the 361 account to pay for the training, support, and fringe benefits for vending facility operators in BEP. The funds must also be used to provide entrepreneurial and independent living, training, and equipment for children who are blind or visually impaired and blind adults. BESB is also permitted to disburse the funds to student and client activity funds. The bill requires these funds also to be used to (1) provide Braille, audio-

recorded or other electronically accessible versions of textbooks for blind, visually impaired, or dyslexic people and (2) develop jobs for blind adults.

The bill requires BESB to submit an annual report, beginning July 1, 2004, detailing the amount and purpose of any money spent from the 361 account. BESB must also include the number and types of new jobs created for blind adults in the preceding calendar year.

Memoranda of Understanding Between BESB and State Agencies

The bill conforms law to practice by allowing BESB to enter into MOUs with other state agencies to exercise its right to place vending machines in state buildings. This includes MOUs for vending facilities at rest and recreation areas adjacent to state highways. BESB must deposit in the 361 account any revenue accruing as a result of these memoranda. BESB currently has a MOU with the Department of Transportation (DOT) that gives BESB the proceeds from DOT-managed vending sales at state rest areas.

BACKGROUND

BESB—BEP and Coke Contract

In practice, it does not appear that the government authorities actually grant permits to BESB. Rather, BESB approaches them and if an authority indicates it wishes to have vending services, BESB sends its staff or vending contractor to the proposed location. If BESB finds the location suitable, it sends a letter to the public official in charge of the building indicating that it will place its machines on a certain date and that any existing machines must be removed by that time. (BESB allows existing contractual arrangements to expire before it goes into a building with one of its vendors.) Once BESB informs the authority that it will be placing machines in its building, the machines remain under BESB's control until the authority no longer wishes to offer vending services in the building, or BESB decides not to operate services there.

BESB's Sales and Services—361 account receives a percentage of the money collected from contracted vending machines in state and municipal buildings. The account is a non-lapsing, restricted state account. Historically, BESB has used the account (1) for the start-up and renovation costs associated with the statewide shops and cafes

that BESB clients operate, (2) to purchase new cafeteria equipment, (3) for equipment repairs, and (4) to pay the salaries and fringe benefits of BESB staff supporting the program.

In 1999, BESB signed an exclusive contract with Coke (five years with a five-year renewal option) to operate all of its vending machines. Before that, BESB had individual contracts with vendors. BESB's commissions under these agreements varied but were less than the 35% BESB negotiated with Coke. (Under the Coke contract, schools retain the 35% commission.) The contract's exclusivity clause appears to give Coke the exclusive right to place its machines at all participating state and local sites, including those that BESB approaches in the future, through the life of the contract.

COMMITTEE ACTION

Program Review and Investigations

Joint Favorable Substitute

Yea 11 Nay 0